

## HOUSE BILL NO. 618

INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A REFUNDABLE TAX CREDIT FOR MEDICAL INSURANCE PREMIUMS PAID BY CERTAIN TAXPAYERS IN EXCESS OF THE AMOUNT PAID IN TAX YEAR 2000; PROVIDING LIMITATIONS ON THE TAX CREDIT; PROVIDING A STATUTORY APPROPRIATION FROM THE MONTANA TOBACCO SETTLEMENT TRUST FUND TO PAY ANY REFUNDS; AMENDING SECTIONS 15-30-121 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, the people of Montana approved a constitutional amendment to dedicate a part of the tobacco litigation settlement money to a constitutional trust fund devoted to tobacco disease prevention and to other health care needs; and

WHEREAS, tobacco-related diseases have driven up health care costs for everyone; and

WHEREAS, the Montana Legislature desires to use the Montana tobacco settlement trust fund in a manner that would satisfy the intent of the trust fund and the spirit of the tobacco litigation settlement; and

WHEREAS, the Montana Legislature intends to use the constitutional trust fund in a manner that ensures that the money is used to offset higher health care costs rather than by creating new government agencies or bureaucracies; and

WHEREAS, the enactment of a refundable income tax credit for medical care premium payments satisfies the intent and spirit of the Montana tobacco settlement trust fund in an efficient and equitable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Legislative findings and declaration of purpose.** (1) The legislature finds that the credit allowed under [section 2] will assist Montana residents who otherwise may not be able to afford adequate coverage in obtaining health insurance coverage.

(2) The legislature declares that for the purposes of Article XII, section 4, of the Montana

constitution, the credit allowed under [section 2] is a state program that provides a benefit, service, or coverage that is related to the health care needs of the people of Montana.

**NEW SECTION. Section 2. Credit for medical care insurance payments -- refund.** (1) Subject to the conditions of this section, there is a tax credit against the taxes otherwise due under this chapter for increases in premium payments made for insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer and the taxpayer's spouse and dependents.

(2) The amount of the credit is equal to 30% of the excess, if any, of premium payments made for insurance for medical care in the tax year over the premium payments made for insurance for medical care in tax year 2000.

(3) The credit allowed in this section may not be claimed by a taxpayer who is a participant in an employer-sponsored health insurance plan for which the employer pays any part of the premium for medical care.

(4) A deduction, exclusion, or credit is not allowed under any other provision of this chapter with respect to the amount for which the credit is allowed under this section.

(5) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even though the taxpayer has no tax liability.

(6) There is statutorily appropriated, as provided in 17-7-502, from the Montana tobacco settlement trust fund created by Article XII, section 4, of the Montana constitution to the department the amount necessary to pay any refunds as provided in subsection (5).

**Section 3.** Section 15-30-121, MCA, is amended to read:

**"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954 (26 U.S.C. 161 and 211), or as sections 161 and 211 are labeled or amended, subject to the following exceptions, which are not deductible:

(i) items provided for in 15-30-123;

(ii) state income tax paid;

1 (iii) premium payments for medical care as provided in subsection (1)(g)(i);

2 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii);

3 (b) federal income tax paid within the tax year;

4 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through  
5 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through  
6 (1)(c)(vi), as follows:

7 (i) expenses for household and dependent care services necessary for gainful employment incurred  
8 for:

9 (A) a dependent under 15 years of age for whom an exemption can be claimed;

10 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross  
11 income do not apply, who is unable to provide self-care because of physical or mental illness; and

12 (C) a spouse who is unable to provide self-care because of physical or mental illness;

13 (ii) employment-related expenses incurred for the following services, but only if the expenses are  
14 incurred to enable the taxpayer to be gainfully employed:

15 (A) household services that are attributable to the care of the qualifying individual; and

16 (B) care of an individual who qualifies under subsection (1)(c)(i);

17 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the  
18 household is furnished by an individual or, if the individual is married during the applicable period, is  
19 furnished by the individual and the individual's spouse;

20 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following  
21 limitations:

22 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred  
23 during the year only to the extent that the expenses do not exceed \$4,800;

24 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for  
25 employment-related expenses only if they are incurred for services in the taxpayer's household, except  
26 that employment-related expenses incurred for services outside the taxpayer's household are deductible,  
27 but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to  
28 the extent that the expenses incurred during the year do not exceed:

29 (I) \$2,400 in the case of one qualifying individual;

30 (II) \$3,600 in the case of two qualifying individuals; and

- 1 (III) \$4,800 in the case of three or more qualifying individuals;
- 2 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
- 3 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
- 4 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
- 5 (vi) for purposes of this subsection (1)(c):
- 6 (A) married couples shall file a joint return or file separately on the same form;
- 7 (B) if the taxpayer is married during any period of the tax year, employment-related expenses
- 8 incurred are deductible only if:
- 9 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the
- 10 extent that they are a direct result of the employment; or
- 11 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);
- 12 (C) an individual legally separated from the individual's spouse under a decree of divorce or of
- 13 separate maintenance may not be considered as married;
- 14 (D) the deduction for employment-related expenses must be divided equally between the spouses
- 15 when filing separately on the same form;
- 16 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
- 17 year and payments made to an individual with respect to whom a deduction is allowable under
- 18 15-30-112(5) are not deductible as employment-related expenses;
- 19 (d) in the case of an individual, political contributions determined in accordance with the provisions
- 20 of section 218(a) and (b) of the Internal Revenue Code (now repealed) that were in effect for the tax year
- 21 ended December 31, 1978;
- 22 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct
- 23 allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
- 24 (f) contributions to the child abuse and neglect prevention program provided for in 41-3-701,
- 25 subject to the conditions set forth in 15-30-156;
- 26 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in
- 27 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128 or
- 28 [section 2], for:
- 29 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the
- 30 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

~~—— (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or~~

~~—— (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;~~

(h) contributions to the Montana drug abuse resistance education program provided for in 44-2-702, subject to the conditions set forth in 15-30-159; and

(i) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2). (Subsection (1)(h) terminates on occurrence of contingency--sec. 12, Ch. 808, L. 1991.)"

**Section 4.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a

1 statutory appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901;  
3 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; [section 2];  
4 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101;  
5 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112;  
6 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604;  
7 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;  
8 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;  
9 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222;  
10 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

11 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
12 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
13 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
14 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
15 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
16 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to  
17 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
18 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,  
19 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of  
20 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability  
21 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,  
22 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710  
23 terminates June 30, 2005.)"

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25 NEW SECTION. **Section 5. Two-thirds vote required.** Because [section 2] provides a statutory  
26 appropriation from the Montana tobacco settlement trust fund to assist Montana citizens in obtaining  
27 adequate health insurance coverage with a refundable tax credit, Article XII, section 4, of the Montana  
28 constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

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30 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 and 2] are intended to be codified

1 as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply  
2 to [sections 1 and 2].

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4 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 8. Retroactive applicability.** [This act] applies retroactively, within the  
7 meaning of 1-2-109, to tax years beginning after December 31, 2000.

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